BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against:

Case No. 2007-218

DENISE MARIE BURSE aka DENISE MARIE DOYLE aka DENISE DOYLE aka DENISE MARIE DOYLE ROBINSON 26103 Palmetto Street Murrieta, CA 92563

Registered Nursing License No. 618338

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on MARCH 15, 2008

It is so ORDERED FEBRUARY 15, 2008.

FOR THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS

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1	EDMUND G. BROWN JR., Attorney General	
2	of the State of California JAMES LEDAKIS Symposising Deputy: Attempts Canaral	
3	Supervising Deputy Attorney General RITA M. LANE, State Bar No. 171352 Deputy Attorney General	
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10	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11		
12		
13	In the Matter of the First Amended Accusation Against:	Case No. 2007-218
14	DENISE MARIE BURSE aka DENISE MARIE	STIPULATED SETTLEMENT AND
15	DOYLE aka DENISE DOYLE aka DENISE MARIE DOYLE ROBINSON	DISCIPLINARY ORDER
16	26103 Palmetto Street Murrieta, CA 92563	
17 18	Registered Nursing License No. 618338	
19	Respondent.	
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21	IT IS HEDEDAY STIDLIL ATED AND	ACDEED by and between the control of
22	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the	
23	above-entitled proceedings that the following matters are true:	
24	PARTIES 1. Puth Ann Terry, M.P.H. P.N. (Complement) is the Evecutive Officer of	
25	1. Ruth Ann Terry, M.P.H, R.N (Complainant) is the Executive Officer of	
26	the Board of Registered Nursing. She brought this action solely in her official capacity and is	
27	represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Rita M. Lane, Deputy Attorney General.	
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- 2. Respondent Denise Marie Burse aka Denise Marie Doyle aka Denise

 Doyle aka Denise Marie Doyle Robinson (Respondent) is representing herself in this proceeding
 and has chosen not to exercise her right to be represented by counsel.
- 3. On or about May 8, 2003, the Board of Registered Nursing issued Registered Nursing License No. 618338 to Respondent. The Nursing License was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 2007-218 and will expire on January 31, 2009, unless renewed.

JURISDICTION

4. First Amended Accusation No. 2007-218 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 1, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on September 28, 2007. A copy of First Amended Accusation No. 2007-218 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 2007-218. Respondent has also carefully read, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 2007-218.
- 9. Respondent agrees that her Registered Nursing License is subject to discipline and she agrees to be bound by the Board's 's imposition of discipline as set forth in the Disciplinary Order below.

<u>CONTINGENCY</u>

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

The parties understand and agree that facsimile copies of this Stipulated 11. Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

DISCIPLINARY ORDER

In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

IT IS HEREBY ORDERED that Registered Nursing License No. 618338 issued to Respondent Denise Marie Burse is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

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Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. Comply with the Board's Probation Program. Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

- 3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.
- 4. Residency, Practice, or Licensure Outside of State. Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside

of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. Submit Written Reports. Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. Function as a Registered Nurse. Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may

grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. **Supervision.** Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

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- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.
- Minimum The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.
- Home Health Care If Respondent is approved to work in the home health (d) care setting, the individual providing supervision and/or collaboration shall have person-toperson communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, onsite visits to patients' homes visited by Respondent with or without Respondent present.
- 9. Employment Limitations. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the reduced amount of \$909.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. Violation of Probation. If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. License Surrender. During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of

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probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
 - (2) One year for a license surrendered for a mental or physical illness.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nursing License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 10-10-07.

DENISE MARIE BURSE

Respondent

ENDORSEMENT The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs. DATED: 10-12-0 EDMUND G. BROWN JR., Attorney General of the State of California JAMES LEDAKIS Supervising Deputy Attorney General Deputy Attorney General Attorneys for Complainant DOJ Matter ID: SD2006802397 80167858.wpd

Exhibit A First Amended Accusation No. 2007-218

1	EDMUND G. BROWN JR., Attorney General	•
2	of the State of California JAMES LEDAKIS	
3	Supervising Deputy Attorney General RITA M. LANE, State Bar No. 171352	
4	Deputy Attorney General California Department of Justice	
5	110 West "A" Street, Suite 1100 San Diego, CA 92101	
6	P.O. Box 85266	•
7	San Diego, CA 92186-5266 Telephone: (619) 645-2614	
8	Facsimile: (619) 645-2061	
9	Attorneys for Complainant	
10	BEFORE THE BOARD OF REGISTERED NURSING	
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
12		
13	In the Matter of the First Amended Accusation Against:	Case No. 2007-218
14	DENISE MARIE BURSE	FIRST AMENDED ACCUSATION
15	aka Denise Marie Doyle aka Denise Dole	
16	aka Denise Marie Doyle Robinson 26103 Palmetto Street	
17	Murrieta, CA 92563	
18	Registered Nursing License No. 618338	
19	Respondent.	
20	Complainant alleges:	
21	PARTIE	S
22		_
23	1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Board of Registered	
24	Nursing (Board).	Dound of registered
25	2. On or about February 20, 2007	7, Accusation No. 2007-218 was filed
26	against Respondent Denise Marie Burse aka Denise Marie Doyle aka Denise Dole aka Denise	
27	Marie Doyle Robinson (Respondent). This First Am	
28	the former Accusation that was filed on February 20,	

3. On or about May 8, 2003, the Board issued Registered Nursing License Number 618338 to Respondent. The Registered Nursing License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2009, unless renewed.

JURISDICTION

- 4. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
- 5. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
 - 6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(b) Considering suspension or revocation of a license under Section 490. Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code states:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and

duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

- 9. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 10. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

. . . .

- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
 - 11. California Code of Regulations, title 16, section 1444 states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

. . .

- (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.
 - 12. California Code of Regulations, title 16, section 1445 states:

. . .

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

Case No. PEM030263, for disturbing the peace, which similarly arose from an incident of

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1	domestic violence against her husband (hit him in the face). Respondent was convicted on her		
2	plea of guilty to a violation of Penal Code section 415 (2) (disturbing the peace), a misdemeanor;		
3	the charge of inflicting corporal injury on her spouse (Penal Code section 273.5(a)) was		
4	dismissed. Respondent was placed on one year summary probation and sentenced to serve one		
5	day in jail and to pay a fine of \$200. In her application Respondent also disclosed two other		
6	arrests, which did not result in convictions, on October 1, 1995 and October 28, 1995, for		
7	corporal injury to her spouse.		
8	18. On June 8, 2003 respondent was arrested for a violation of Penal Code		
9	section 243(e)(1) (battery against a spouse) after she slapped her husband in the face and threw a		
10	Bible, which hit him in the back of the head. The District Attorney declined to prosecute this		
11	matter.		
12	<u>PRAYER</u>		
13	WHEREFORE, Complainant requests that a hearing be held on the matters herein		
14	alleged, and that following the hearing, the Board issue a decision:		
15	1. Revoking or suspending Registered Nursing Number 618338, issued to		
16	Denise Marie Burse aka Denise Marie Doyle aka Denise Dole aka Denise Marie Doyle		
17	Robinson;		
18	2. Ordering Denise Marie Burse to pay the Board the reasonable costs of the		
19	investigation and enforcement of this case, pursuant to Business and Professions Code section		
20	125.3; and		
21	3. Taking such other and further action as deemed necessary and proper.		
22	DATED: <u>Sept. 28, 200</u> 7		
23	RD 11 la 1		
24	Mill M. Mare 1907 RUTH ANN TERRY, M.P.H., K.N.		
25	Executive Officer Board of Registered Nursing		
26	State of California Complainant		
27	- Complainant		